

§ 89.20

§ 89.20 Report of superintendent.

The superintendent should submit a report when transmitting the contract, setting forth the qualifications and general reputation of the attorney selected, based upon references and independent inquiry by the superintendent, and the superintendent's recommendation concerning approval of the contract.

[22 FR 10539, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 89.21 Copies of approved contracts.

The original of all approved contracts will be retained by the Area Director with a copy to the tribal governing body, attorney, Superintendent and Commissioner. The Commissioner's copy should be completely supported by copies of the recommendation of the Superintendent or Officer in Charge, Regional Solicitor's or Field Solicitor's opinions, and any other pertinent data which will permit the records of the Commissioner's office to reflect the full current status of approved attorney contracts in each instance.

[27 FR 11549, Nov. 24, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 89.22 Qualifications of attorneys.

The person selected as attorney should be a reputable member of the bar, and fully competent to carry the case through the Court of Claims, and to the Supreme Court of the United States, if necessary.

[22 FR 10539, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 89.24 Fees and expenses.

Under rulings of the Comptroller General and section 27 of the act of May 18, 1916 (39 Stat. 158; 25 U.S.C. 123), tribal funds held in the United States Treasury may not be used for payment of attorney fees and expenses, in the absence of express authorization by Congress. Unless congressional authority has been obtained for the use of tribal funds, the payment of attorney fees and expenses shall be contingent upon a recovery by the Indians in the matters or claims covered in the contract. In case congressional authority

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has been obtained for the use of tribal funds for attorney fees and expenses, the provisions of the contract concerning the payment of such fees and expenses should strictly conform to the provisions of the act authorizing the use of the funds.

[22 FR 10539, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 89.25 Invalid contracts.

The following is especially pointed out. 25 U.S.C. 81 provides further that all contracts made in violation of that section shall be null and void. Under 25 U.S.C. 84 and Reorganization plan No. 3 of 1950, 5 U.S.C. 481 note, no assignment of any such contract shall be valid without the consent of the Secretary of the Interior or his authorized representative. 25 U.S.C. 85 declares that no contract with any individual Indian relating to tribal property shall have any validity unless the consent of the United States has previously been given thereto.

[25 FR 1689, Feb. 26, 1960. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 89.26 Governing bodies without express authority to contract.

In the following cases, the entity or spokesman officially recognized as having authority to act for a tribe may both negotiate and conclude contracts for the services of legal counsel pursuant to applicable provisions of this part:

(a) In the absence of tribal governing documents, or

(b) When such documents do not expressly authorize the governing body of a tribe to conclude such contracts and do not provide for calling a tribal meeting to authorize concluding such contracts pursuant to § 89.8, and convening a tribal general council is not deemed feasible.

[37 FR 10440, May 23, 1972. Redesignated at 47 FR 13327, Mar. 30, 1982]

FIVE CIVILIZED TRIBES

§ 89.30 Contents and approval of contracts.

All contracts for the services of legal counsel or technical specialists negotiated and executed with the Choctaw,